



आरत का राजपत्र

The Gazette of India

प्रसाधारण

EXTRAORDINARY

भाग II—खण्ड 2

PART II—Section 2

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

No. 25] नई दिल्ली, बुध, 20 मई, 1970/30 वैशाख, 1892 (शक)
 संख्या 25] NEW DELHI, WEDNESDAY, MAY 20, 1970/ VAISAKH 30, 1892 (SAKA)

इस भाग में भिन्न पृष्ठ संख्या ही जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed
 as a separate compilation.

LOK SABHA

The following Bill was introduced in Lok Sabha on the 20th May, 1970:—

BILL NO. 54 OF 1970

A Bill further to amend the Central Sales Tax Act, 1956.

Be it enacted by Parliament in the Twenty-first Year of the Republic of India as follows:—

1. (1) This Act may be called the Central Sales Tax (Amendment) Act, 1970.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

74 of 1956.

2. In section 6 of the Central Sales Tax Act, 1956 (hereinafter referred to as the principal Act), for sub-section (2), the following sub-section shall be substituted, namely:—

“(2) Notwithstanding anything contained in sub-section (1) or sub-section (1A), where a sale of any goods in the course of inter-State trade or commerce has either occasioned the movement of such goods from one State to another or has been effected by a transfer of documents of title to such goods during their movement from one State to another, any subsequent sale during such movement effected by a transfer of documents of title to such goods,—

(a) to the Government, or

(b) to a registered dealer other than the Government, if the goods are of the description referred to in sub-section (3) of section 8,

shall be exempt from tax under this Act:

Short title and commencement.

Amendment of section 6.

Provided that no such subsequent sale shall be exempt from tax under this sub-section unless the dealer effecting the sale furnishes to the prescribed authority in the prescribed manner and within the prescribed time,—

(a) a certificate duly filled and signed by the registered dealer from whom the goods were purchased containing the prescribed particulars in a prescribed form obtained from the prescribed authority; and

(b) if the subsequent sale is made,—

(i) to a registered dealer, a declaration referred to in clause (a) of sub-section (4) of section 8, or

(ii) to the Government, not being a registered dealer, a certificate referred to in clause (b) of section (4) of section 8:

Provided further that it shall not be necessary to furnish the declaration or the certificate referred to in clause (b) of the preceding proviso in respect of a subsequent sale of goods if,—

(a) the sale or purchase of such goods is, under the sales tax law of the appropriate State, exempt from tax generally or is subject to tax generally at a rate which is lower than three per cent. (whether called a tax or fee or by any other name); and

(b) the dealer effecting such subsequent sale proves to the satisfaction of the authority referred to in the preceding proviso that such sale is of the nature referred to in clause (a) or clause (b) of this sub-section.”.

3. After section 6 of the principal Act, the following section shall be inserted, namely:—

Insertion
of new
section
6A.

Burden
of proof,
etc., in
case of
transfer
of goods
claimed
otherwise
than by
way of
sale.

“6A. (1) Where any dealer claims that he is not liable to pay tax under this Act, in respect of any goods, on the ground that the movement of such goods from one State to another was occasioned by reason of transfer of such goods by him to any other place of his business or to his agent or principal, as the case may be, and not by reason of sale, the burden of proving that the movement of those goods was so occasioned shall be on that dealer and for this purpose he may produce before the prescribed authority, within the prescribed time, a declaration, duly filled and signed by the principal officer of the other place of business, or his agent or principal, as the case may be, containing the prescribed particulars in the prescribed form obtained from the prescribed authority, along with the evidence of despatch of such goods.

(2) If the prescribed authority is satisfied after such enquiry as he may deem necessary that the particulars contained in the declaration are true, he shall make an order to that effect and thereupon the movement of goods to which the declaration relates shall be deemed for the purposes of this Act to have been occasioned otherwise than as a result of sale.”.

4. In section 7 of the principal Act,—

(a) after sub-section (2), the following sub-section shall be inserted, namely:—

“(2A) Where it appears necessary to the authority to whom an application is made under sub-section (1) or sub-section (2) so to do for the proper realisation of the tax payable under this Act or for the proper custody and use of the forms referred to in clause (a) of the first proviso to sub-section (2) of section 6 or sub-section (1) of section 6A or clause (a) of sub-section (4) of section 8, he may, by an order in writing and for reasons to be recorded therein, impose as a condition for the issue of a certificate of registration a requirement that the dealer shall furnish in the prescribed manner and within such time as may be specified in the order such security as may be so specified, for all or any of the aforesaid purposes.”;

(b) in sub-section (3), after the words “rules made thereunder”, the words, brackets, figure and letter “and the condition, if any imposed under sub-section (2A), has been complied with” shall be inserted;

(c) after sub-section (3), the following sub-sections shall be inserted, namely:—

“(3A) Where it appears necessary to the authority granting a certificate of registration under this section so to do for the proper realisation of tax payable under this Act or for the proper custody and use of the forms referred to in sub-section (2A), he may, at any time while such certificate is in force, by an order in writing and for reasons to be recorded therein, require the dealer, to whom the certificate has been granted, to furnish within such time as may be specified in the order and in the prescribed manner such security and, if the dealer has already furnished any security in pursuance of an order under this sub-section or sub-section (2A), such additional security as may be specified in the order, for all or any of the aforesaid purposes.

(3B) No dealer shall be required to furnish any security under sub-section (2A) or sub-section (3A), unless he has been given an opportunity of being heard and the amount of security that may be demanded from any dealer under either or both of the aforesaid sub-sections shall be reasonable having regard to all the circumstances of the case and shall not in the aggregate exceed fifty thousand rupees.

(3C) Where the security furnished by a dealer under sub-section (2A) or sub-section (3A) is in the form of a surety bond and the surety becomes insolvent or dies the dealer shall, within fifteen days of the occurrence of any of the aforesaid events, inform the authority granting the certificate of registration and shall within thirty days of such occurrence furnish a fresh surety bond or furnish in the prescribed manner other security for the amount of the bond.

Amend-
ment of
section 7.

(3D) The authority granting the certificate of registration may by order and for good and sufficient cause forfeit the whole or any part of the security furnished by a dealer,—

(a) for realising any amount of tax or penalty payable by the dealer;

(b) if the dealer is found to have misused any of the forms referred to in sub-section (2A) or to have failed to keep them in proper custody:

Provided that no order shall be passed under this sub-section without giving the dealer an opportunity of being heard.

(3E) Where by reason of an order under sub-section (3D), the security furnished by any dealer is rendered insufficient, he shall make up the deficiency in such manner and within such time as may be prescribed.

(3F) The authority issuing the forms referred to in sub-section (2A) may refuse to issue such forms to a dealer who has failed to comply with an order under that sub-section or sub-section (3A), or with the provisions of sub-section (3C) or sub-section (3E), until the dealer has complied with such order or such provisions, as the case may be.

(3G) The authority, granting a certificate of registration may, on application by the dealer to whom it has been granted, order the refund of any amount or part thereof deposited by the dealer by way of security under this section, if it is not required for the purposes of this Act.”;

(d) in sub-section (4), in clause (b), for the words “or has ceased to exist”, the words, brackets, figures and letters “or has ceased to exist or has failed without sufficient cause, to comply with an order under sub-section (3A) or with the provisions of sub-section (3C) or sub-section (3E) or has failed to pay any tax or penalty payable under this Act” shall be substituted.

5. In section 8 of the principal Act,—

(a) for sub-section (2A), the following sub-section shall be and shall be deemed to have been substituted with effect from the 1st day of October, 1958, namely:—

“(2A) Notwithstanding anything contained in sub-section (1A) of section 6 or sub-section (1) or sub-section (2) of this section, the tax payable under this Act by a dealer on his turnover in so far as the turnover or any part thereof relates to the sale of any goods, the sale or, as the case may be, the purchase of which is, under the sales tax law of the appropriate State, exempt from tax generally or subject to tax generally at a rate which is lower than three per cent. (whether called a tax or fee or by any other name), shall be nil or as the case may be, shall be calculated at the lower rate.

Explanation.—For the purposes of this sub-section a sale or purchase of any goods shall not be deemed to be exempt from tax

generally under the sales tax law of the appropriate State if under that law the sale or purchase of such goods is exempt only in specified circumstances or under specified conditions or the tax is levied on the sale or purchase of such goods at specified stages or otherwise than with reference to the turnover of the goods.”;

(b) in sub-section (4), after the words “to the prescribed authority in the prescribed manner”, the words “and within the prescribed time” shall be inserted;

(c) for sub-section (5), the following sub-section shall be substituted, namely :—

“(5) Notwithstanding anything contained in this section, the State Government may, if it is satisfied that it is necessary so to do in the public interest, by notification in the Official Gazette, and subject to such conditions as may be specified therein, direct,—

(a) that no tax under this Act shall be payable by any dealer having his place of business in the State in respect of the sales by him, in the course of inter-State trade or commerce, from any such place of business of any such goods or classes of goods as may be specified in the notification, or that the tax on such sales shall be calculated at such lower rates than those specified in sub-section (1) or sub-section (2) as may be mentioned in the notification;

(b) that in respect of all sales of goods or sales of such classes of goods as may be specified in the notification, which are made, in the course of inter-State trade or commerce, by any dealer having his place of business in the State or by any class of such dealers as may be specified in the notification to any person or to such class of persons as may be specified in the notification, no tax under this Act shall be payable or the tax on such sales shall be calculated at such lower rates than those specified in sub-section (1) or sub-section (2) as may be mentioned in the notification.”.

6. In section 9 of the principal Act, in sub-section (2), for the words “refunds, penalties”, the words “refunds, rebates, penalties,” shall be substituted.

Amend-
ment of
section 9.

7. Section 9A of the principal Act shall be re-numbered as sub-section (1) thereof and after sub-section (1) as so re-numbered, the following sub-sections shall be inserted, namely:—

Amend-
ment of
section
9A.

“(2) Any amount collected or purporting to have been collected by a registered dealer or any other person by way of tax under this Act in any State or part thereof in contravention of the provisions of this Act shall not be retained by such dealer or other person but shall be deposited by him,—

(a) in such manner and within such period as may be prescribed by the State Government, with the authority empowered to assess, or as the case may be, re-assess, collect and enforce payment of any tax under the general sales tax law of the appropriate State or part thereof; and

(b) where there is no general sales tax law in such State or part thereof, in such manner, within such period and with such authority as may be prescribed by the Central Government, and notwithstanding anything contained in this Act or in any law for the time being in force, the refund of the amount so deposited may be claimed only by the person from whom such dealer or other person collected it.

(3) If any question arises as to whether any registered dealer or other person has collected any amount by way of tax under this Act in any State or part thereof in contravention of the provisions of sub-section (1), it shall be decided by the authority referred to in clause (a) or, as the case may be, in clause (b) of sub-section (2), after giving an opportunity to the dealer or other person concerned to be heard and making such inquiry as that authority may deem fit.

(4) The prescribed authority shall, in the prescribed manner, refund to a person making an application in this behalf any amount collected from such person and deposited under sub-section (2):

Provided that no such application shall be entertained unless it is made within three years of the date of such deposit.”.

Amend-
ment of
section
10.

8. In section 10 of the principal Act,—

(a) for clause (a), the following clauses shall be substituted, namely:—

“(a) furnishes a certificate or declaration, under sub-section (2) of section 6 or sub-section (1) of section 6A or sub-section (4) of section 8, which he knows, or has reason to believe, to be false; or

(aa) fails to get himself registered as required by section 7, or fails to comply with an order under sub-section (3A) or with the requirements of sub-section (3C) or sub-section (3E), of that section;”;

(b) for clause (f), the following clause shall be substituted, namely:—

“(f) collects any amount by way of tax in contravention of the provisions of sub-section (1) of section 9A or fails to deposit the amount required to be deposited under sub-section (2) of that section;”.

Amend-
ment of
section
10A.

9. In section 10A of the principal Act, in sub-section (1), for the words “the tax which would have been levied under this Act in respect of the sale to him of the goods if the offence had not been committed”, the words, brackets and figures “the tax which would have been levied under sub-section (2) of section 8 in respect of the sale to him of the goods, if the sale had been a sale falling within that sub-section” shall be substituted.

Amend-
ment of
section
13.

10. In section 13 of the principal Act,—

(a) in sub-section (1),—

(i) in clause (b), after the words “the deductions which may be made”, the words, brackets, letters and figures “under clause (c) of sub-section (1) of section 8A” shall be inserted;

(ii) in clause (d), the words "and the State of origin of such form or certificate" shall be inserted at the end;

(iii) after clause (f), the following clauses shall be inserted, namely:—

"(ff) the manner in which, the period within which and the authority with whom deposits may be made under clause (b) of sub-section (2) of section 9A;

(fff) the authority by whom and the manner in which amounts deposited under clause (b) of sub-section (2) of section 9A may be refunded under sub-section (4) of that section;"

(b) for sub-section (2), the following sub-section shall be substituted, namely:—

"(2) Every rule made by the Central Government under sub-section (1) shall be laid as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.";

(c) in sub-section (4),—

(i) after clause (a), the following clause shall be inserted, namely:—

"(aa) the manner in which security may be furnished under sub-section (2A) or sub-section (3A) or sub-section (3C) of section 7 and the manner in which and the time within which any deficiency may be made up under sub-section (3E) of that section;"

(ii) for clause (e), the following clause shall be substituted, namely:—

"(e) the authority from whom, the conditions subject to which and the fees subject to payment of which any form of certificate prescribed under clause (a) of the first proviso to sub-section (2) of section 6 or of declaration prescribed under sub-section (1) of section 6A or sub-section (4) of section 8 may be obtained, the manner in which such forms shall be kept in custody and records relating thereto maintained, the manner in which any such form may be used and any such certificate or declaration may be furnished and the time within which any such certificate or declaration shall be produced or furnished;"

(iii) after clause (g), the following clause shall be inserted, namely:—

“(h) the manner in which, the period within which and the authority with whom deposits may be made under clause (a) of sub-section (2) of section 9A and the authority by whom and the manner in which amounts deposited under that clause may be refunded under sub-section (4) of that section.”;

(d) in sub-section (5), for the words “the State Government”, the words “the Central Government or, as the case may be, the State Government” shall be substituted.

Amend-
ment of
section
14.

11. In section 14 of the principal Act,—

(a) for clause (i), the following clause shall be and be deemed always to have been substituted, namely:—

“(i) coal, including coke in all its forms, but excluding char-coal;”;

(b) for clause (iv), the following clause shall be substituted, namely:—

“(iv) iron and steel, that is to say—

(i) pig iron and cast iron including ingot moulds, bottom plates, runner scrap and iron skull scrap;

(ii) steel semis (ingots, slabs, blooms and billets of all qualities, shapes and sizes);

(iii) skelp bars, tin bars, sheet bars, hoe-bars and sleeper bars;

(iv) steel bars (rounds, rods, squares, flats, octagons and hexagons, plain and ribbed or twisted, in coil form as well as straight lengths);

(v) steel structurals (angles, joists, channels, tees, sheet piling sections, Z sections or any other rolled sections);

(vi) sheets, hoops, strips and skelp, both black and galvanised, hot and cold rolled, plain and corrugated, in all qualities, in straight lengths and in coil form, as rolled and in rivetted condition;

(vii) plates both plain and chequered in all qualities;

(viii) discs, rings, forgings and steel castings;

(ix) tool, alloy and special steels of any of the above categories;

(x) steel melting scrap in all forms including steel skull, turnings and borings;

(xi) steel tubes, both welded and seamless, of all diameters and lengths, including tube fittings;

(xii) tin-plates, both hot dipped and electrolytic and tin-free plates;

(xiii) fish plate bars, bearing plate bars, crossing sleeper bars, fish plates, bearing plates, crossing sleepers and pressed steel sleepers, rails—heavy and light crane rails;

(xiv) wheels, tyres, axles and wheel sets;

(xv) wire rods and wires—rolled, drawn, galvanised, aluminised, tinned or coated such as by copper;

(xvi) defectives, rejects, cuttings or end pieces of any of the above categories;" ;

(c) for clause (v), the following clause shall be substituted, namely:—

"(v) jute, that is to say, the fibre extracted from plants belonging to the species *Corchorus capsularis* and *Corchorus olitorius* and the fibre known as mesta or bimli extracted from plants of the species *Hibiscus cannabinus* and *Hibiscus sabdariffa*—*Varaltissima* and the fibre known as Sunn or Sunnhemp extracted from plants of the species *Crotalaria juncea* whether baled or otherwise;" ;

(d) for clause (vi), the following clause shall be substituted, namely:—

"(vi) Oilseeds that, is to say—

(i) Groundnut or Peanut (*Arachis hypogaea*);

(ii) Sesamum or Til (*Sesamum orientale*);

(iii) Cotton seed (*Gossypium Spp.*);

(iv) Soyabean (*Glycine sejá*);

(v) Rapeseed and Mustard—

(1) Toria (*Brassica campestris var toria*);

(2) Rai (*Brassica juncea*);

(3) Jamba—Taramira (*Eruca Satiya*);

(4) Sarson, yellow and brown (*Brassica campestris var sarson*);

(5) Banarasi Rai or True Mustard (*Brassica nigra*);

(vi) Linseed (*Linum usitatissimum*);

(vii) Castor (*Ricinus communis*);

(viii) Coconut (i.e. Copra excluding tender coconuts)

(*Cocos nucifera*);

(ix) Sunflower (*Helianthus annus*);

(x) Niger seed (*Guizotia abyssinica*);

(xi) Neem, vepa (*Azadirachta indica*);

(xii) Mahua, illupai, Ippe (*Madhuca indica M. Latifolia, Bussia, Latifolia* and *Madhuca longifolia* syn. *M. Longifolia*);

(xiii) Karanja, Pongam, Honga (*Pongamia pinnata* syn. *P. Glabra*);

- (xiv) Kusum (*Schleichera oleosa*, syn. *S. Trijuga*);
- (xv) Punna, Undi (*Calophyllum inophyllum*);
- (xvi) Kokum (*Carcinia indica*);
- (xvii) Sal (*Shorea robusta*);
- (xviii) Tung (*Aleurites fordii* and *A. montana*);
- (xix) Red palm (*Elaeis guinensis*);
- (xx) Safflower (*Carthamus tinctorius*);”.

Amendment of section 15.

12. In section 15 of the principal Act, in clause (b), for the words “the tax so levied”, the words “and tax has been paid under this Act in respect of the sale of such goods in the course of inter-State trade or commerce, the tax levied under such law” shall be and shall be deemed to have been, substituted, with effect from the 1st day of October, 1958.

Insertion of new Chapter V.

13. In the principal Act, after Chapter IV, the following Chapter shall be inserted, namely:—

CHAPTER V

LIABILITY IN SPECIAL CASES

Definitions.

16. In this Chapter,—

(a) “appropriate authority”, in relation to a company, means the authority competent to assess tax on the company;

(b) “company” and “private company” have the meanings respectively assigned to them by clauses (i) and (iii) of sub-section (1) of section 3 of the Companies Act, 1956.

i of 1956

Company in liquidation.

17. (1) Every person—

(a) who is the liquidator of any company which is being wound up, whether under the orders of a court or otherwise; or

(b) who has been appointed the receiver of any assets of a company,

(hereinafter referred to as the liquidator) shall, within thirty days after he has become such liquidator, give notice of his appointment as such to the appropriate authority.

(2) The appropriate authority shall, after making such inquiry or calling for such information as it may deem fit, notify to the liquidator within three months from the date on which he receives notice of the appointment of the liquidator the amount which, in the opinion of the appropriate authority would be sufficient to provide for any tax which is then, or is likely thereafter to become, payable by the company.

(3) The liquidator shall not part with any of the assets of the company or the properties in his hands until he has been notified by the appropriate authority under sub-section (2) and on being so notified, shall set aside an amount equal to the amount notified and, until he so sets aside such amount, shall not part with any of the assets of the company or the properties in his hands:

Provided that nothing contained in this sub-section shall debar the liquidator from parting with such assets or properties for the purpose of the payment of the tax payable by the company under this Act or for making any payment to secured creditors whose debts are entitled under law to priority of payment over debts due to Government on the date of liquidation or for meeting such costs and expenses of the winding up of the company as are in the opinion of the appropriate authority reasonable.

(4) If the liquidator fails to give the notice in accordance with sub-section (1) or fails to set aside the amount as required by, or parts with any of the assets of the company or the properties in his hands in contravention of the provisions of sub-section (3), he shall be personally liable for the payment of the tax which the company would be liable to pay:

Provided that if the amount of any tax payable by the company is notified under sub-section (2), the personal liability of the liquidator under this sub-section shall be to the extent of such amount.

(5) Where there are more liquidators than one, the obligations and liabilities attached to the liquidator under this section shall attach to all the liquidators jointly and severally.

(6) The provisions of this section shall have effect notwithstanding anything to the contrary contained in any other law for the time being in force.

1 of 1956.

18. Notwithstanding anything contained in the Companies Act, 1956, when any private company is wound up after the commencement of this Act, and any tax assessed on the company under this Act for any period, whether before or in the course of or after its liquidation, in respect of any previous year cannot be recovered, then, every person who was a director of the private company at any time during the relevant previous year shall be jointly and severally liable for the payment of such tax unless he proves that the non-recovery cannot be attributed to any gross neglect, misfeasance or breach of duty on his part in relation to the affairs of the company.'

Liability
of direc-
tors of
private
company
in liqui-
dation.

14. The principal Act, as amended by this Act, is hereby extended to, and shall be in force in, the Kohima and Mokokchung districts in the State of Nagaland.

Exten-
sion of the
principal
Act to
Kohima
and
Mokok-
chung
districts
in the
State of
Nagaland.

15. (1) Notwithstanding anything contained in any judgment, decree or order of any court or other authority to the contrary, any assessment, reassessment, levy or collection of any tax made or purporting to have been made, any action or thing taken or done in relation to such assessment, reassessment, levy or collection under the provisions of the principal Act before the commencement of this Act shall be deemed to be as valid and effective as if such assessment, reassessment, levy or collection

Valida-
tion of
assess-
ments etc.

or action or thing had been made, taken or done under the principal Act as amended by clause (a) of section 5, clause (a) of section 11 and section 12 of this Act, and accordingly—

(a) all acts, proceedings or things done or action taken by the State Government or by any other officer of the State Government or by any other authority in connection with the assessment, reassessment, levy or collection of such tax shall, for all purposes, be deemed to be and to have always been done or taken in accordance with law;

(b) no suit or other proceedings shall be maintained or continued in any court or before any authority for the refund of any such tax; and

(c) no court shall enforce any decree or order directing the refund of any such tax.

(2) For the removal of doubts, it is hereby declared that nothing in sub-section (1) shall be construed as preventing any person—

(a) from questioning in accordance with the provisions of the principal Act, as amended by this Act, the assessment, reassessment, levy or collection of such tax for any period, or

(b) from claiming refund of any tax paid by him in excess of the amount due from him under the principal Act as amended by this Act.

STATEMENT OF OBJECTS AND REASONS

The levy of tax on inter-State sales under the Central Sales Tax Act, 1956, commenced from the 1st July, 1957. Experience of the working of the Act has shown that it requires to be amended in certain respects for dealing with the problems of evasion of tax, illegal collection of tax, realisation of tax in the event of liquidation of a company and for spelling out the intention underlying certain provisions more clearly so as to overcome or avoid interpretations to the contrary.

2. The Bill seeks to make the following important amendments in the Act:—

(i) Central sales tax is not leviable in respect of transactions of transfer of goods from a head office or a principal to a branch or an agent or *vice versa* as these do not amount to sales. This aids evasion in that dealers try to show even genuine sales to third parties as transactions of this type. Accordingly, it is proposed to provide that the burden of proving that the transfer of goods in such cases is otherwise than by way of sale shall lie on the dealer who claims exemption from tax on the ground that there was in fact no sale.

(ii) In order to deal effectively with tax evaders, provision is sought to be made for demand, in appropriate cases, of security or additional security not exceeding Rs. 50,000 for initial registration or for continuance of registration. It is also proposed to make the penalty provisions more stringent.

(iii) To deal with illegal collection of tax, section 9A of the principal Act is sought to be amended to make it obligatory for a dealer who collects by way of tax any amount in contravention of the provisions of law to deposit the same with Government. Provisions are also being made for refund of amounts so deposited to the persons from whom they were collected by the dealer.

(iv) Section 14 of the Act which declares certain goods as of special importance in inter-State trade or commerce is sought to be amended as under:—

(a) The Supreme Court has ruled that the existing definition of "coal" includes "charcoal". Coal was included as one of the goods of special importance with a view to covering only that "coal" which is used mostly as an industrial fuel and not "charcoal". The definition is, therefore, sought to be amended retrospectively to exclude "charcoal".

(b) The definitions of "iron and steel" and "oilseeds", given in the section, have led to varying interpretations by assessing authorities and the courts. The existing definitions are, therefore, sought to be replaced by specific lists of iron and steel items and oilseeds in order to avoid any ambiguity in this respect. The

definition of "jute" is also being substituted by a more precise definition.

(v) Clause (b) of section 15 which provides for refund of local sales tax on goods declared to be of special importance in inter-State trade or commerce in cases where such goods are sold in inter-State trade or commerce, is being amended retrospectively to make it clear that the refund of local sales tax can be claimed only when tax on the inter-State sale has been paid and not otherwise.

(vi) A new Chapter is sought to be added to provide for collection of tax in the event of liquidation of a company.

(vii) The Bill also makes necessary provision for validation of past levies.

3. Opportunity is being taken to extend the principal Act to Kohima and Mokokchung Districts of Nagaland.

4. The Bill seeks to achieve the above objects.

P. C. SETHI

NEW DELHI;
The 8th May, 1970.

President's Recommendation under Articles 117 and 274 of the Constitution of India

[Copy of letter No. F. 8/22/60-ST(III), dated the 11th May, 1970 from Shri Prakashchand B. Sethi, Minister of State in the Ministry of Finance to the Secretary, Lok Sabha.]

The President, having been informed of the subject matter of the proposed Bill, recommends under clauses (1) and (3) of article 117 read with clause (1) of article 274 of the Constitution of India, the introduction of the Central Sales Tax (Amendment) Bill, 1970 in the Lok Sabha and also recommends to the Lok Sabha the consideration of the Bill.

Notes on clauses

Clause 2.—This clause seeks to substitute a new sub-section for existing sub-section (2) of section 6. Under the existing sub-section, all inter-State sales of the same goods subsequent to the first of such sales effected during the same movement of goods are exempt from tax if such subsequent sales are made to registered dealers. The new sub-section seeks to provide for a similar exemption from tax in respect of such subsequent sales to Government also.

Clause 3.—This clause seeks to insert a new section 6A in the principal Act for the purpose of providing that the burden of proving that any movement of goods from one State to another was occasioned otherwise than by way of sale shall be on the dealer making such claim. For the purpose of discharging this burden, the dealer may produce a declaration in the prescribed form from the person in the other State to whom the goods have been sent along with evidence of such despatch of goods.

Clause 4.—This clause seeks to amend section 7 of the principal Act to empower the registering authority to demand, in appropriate cases, security or additional security up to an amount or amounts not exceeding in the aggregate fifty thousand rupees, for initial registration or for continuance of registration. The clause also makes the necessary ancillary and consequential provisions in regard to the form in which the security may be furnished or replenished, the forfeiture of security, etc.

Clause 5.—

Sub-clause (a) of this clause seeks to substitute with retrospective effect from the 1st October, 1958, a new sub-section for existing sub-section (2A) of section 8 of the principal Act. The new sub-section seeks to bring out more clearly that an exemption or lower rate of levy under the local sales tax law of the appropriate State would be available in respect of an inter-State sale of goods only if such exemption or lower levy is available generally with reference to such goods or such class of goods under the local sales tax law.

Sub-clause (b) seeks to amend sub-section (4) of section 8 of the principal Act for the purpose of empowering the State Government to prescribe the time within which the declarations or certificates prescribed under the sub-section have to be furnished.

Sub-clause (c) seeks to substitute a new sub-section for existing sub-section (5) of section 8 of the principal Act. Under the existing sub-section, State Governments may grant exemption from tax or reduction in rate of tax with reference to any goods or classes of goods only. The new sub-section seeks to provide for such exemptions or reductions being granted with reference to persons also.

Clause 6.—This clause seeks to amend sub-section (2) of section 9 of the principal Act for providing that the provisions relating to rebates in

the general sales tax law of the appropriate State would also apply for the grant of rebates under the principal Act.

Clause 7.—This clause seeks to insert three new sub-sections in section 9A of the principal Act. The first of these sub-sections provides that amounts collected or purporting to have been collected by way of tax in contravention of the provisions of the principal Act should be deposited with Government. The second sub-section provides for settlement of disputes as to whether any such amount has been collected. The third sub-section provides for the refund of amounts deposited with Government to the persons from whom those amounts were originally collected.

Clause 8.—This clause seeks to amend section 10 of the principal Act to provide for penalties in respect of the various matters specified therein.

Clause 9.—This clause seeks to amend sub-section (1) of section 10A of the principal Act which provides for imposition of penalty in lieu of prosecution for certain offences. At present the maximum penalty which may be levied in respect of any offence is an amount equivalent to one and a half times the tax which would have been levied in respect of the sale of goods to which the offence relates. The amendment seeks to provide that the maximum penalty shall be computed in the case of every offence with reference to the higher rates of tax applicable under sub-section (2) of section 8 as if the sale to which the offence relates were a sale under that sub-section.

Clause 10.—This clause seeks to amend section 13 of the principal Act which deals with the rule-making powers of the Central and State Governments. The amendments proposed by this clause are mainly of a consequential or formal nature.

Clause 11.—

Sub-clause (a) seeks to exclude, with retrospective effect, charcoal from the definition of "coal" contained in clause (i) of section 14 of the principal Act.

Sub-clause (b) seeks to substitute clause (iv) of section 14 of the principal Act for the purpose of enumerating expressly the various sub-items falling under the item "Iron and Steel".

Sub-clause (c) seeks to substitute the definition of the term "jute" by a more precise definition.

Sub-clause (d) seeks to substitute clause (vi) of section 14 of the principal Act for enumerating expressly the various types of oil-seeds.

Clause 12.—This clause seeks to amend with retrospective effect from the 1st October, 1958, clause (b) of section 15 of the principal Act so as to make it clear that refund of local sales tax on goods declared to be of special importance in inter-State trade or commerce would be admissible only when the tax on the inter-State sale of such goods has been paid.

Clause 13.—This clause seeks to insert a new Chapter V in the principal Act to provide for collection of tax in the event of liquidation of a company.

Clause 14.—This clause seeks to extend the principal Act to Kohima and Mokokchung Districts in the State of Nagaland.

Clause 15.—This clause seeks to make the necessary validating provision.

FINANCIAL MEMORANDUM

The Central Sales Tax Act, 1956, utilises the machinery in existence in States and Union territories for collection of tax. Thus no expenditure out of the Consolidated Fund of India is involved in the collection of Central sales tax in States.

Clause 2 of the Bill seeks to substitute a new sub-section for sub-section (2) of section 6 of the principal Act. The first proviso to the new sub-section provides that for the purposes of claiming exemption from tax on subsequent sales dealers have to furnish certificates in the prescribed form.

Clause 3 of the Bill seeks to insert a new section 6A in the principal Act. Sub-section (1) of the new section provides *inter alia* that for the purpose of proving that the movement of goods from one State to another effected by a dealer was occasioned otherwise than by way of sale, the dealer may furnish a declaration in the prescribed form.

The aforesaid forms will have to be printed by the Central Government for meeting the requirements in Union territories. The printing of the same will involve an expenditure of a recurring nature which is not likely to exceed Rs. 10,000 per annum.

The Bill does not involve any non-recurring expenditure.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Certain provisions of the Bill confer rule-making powers on Central and State Governments.

The first proviso to new sub-section (2) of section 6 (*vide* clause 2 of the Bill) provides for furnishing of certain forms for claiming exemption from tax on subsequent inter-State sales referred to in that proviso. New section 6A (*vide* clause 3 of the Bill) provides for the filing of a declaration by a dealer claiming that the movement of any goods has been occasioned otherwise than by way of sale. The aforesaid new sub-section (2) of section 6 and new section 6A read with new clause (e) of sub-section (4) of section 13 [*vide* clause 10(c) (ii) of the Bill] empower the State Government to prescribe by rules the form of, and the particulars which should be contained in, the said certificates and declarations; the authority from whom, the conditions subject to which and the fees subject to the payment of which the said forms may be obtained; the manner in which the said forms shall be kept in custody and records relating thereto maintained and the manner in which such forms may be used and the certificates and declarations in such forms may be furnished and the time within which such certificates and declarations shall be furnished, etc.

Clause 4 of the Bill seeks to amend section 7 of the principal Act for authorising the registering authority to demand security or additional security for initial registration or for continuance of registration. This clause read with clause 10(c) (i) of the Bill authorises the State Government to prescribe by rules the manner in which the security or the additional security shall be furnished and the manner in which and the time within which any security which has become insufficient shall be replenished.

Clause 5 (b) of the Bill seeks to amend sub-section (4) of section 8 of the principal Act to enable rules being made for prescribing also the time within which the certificates and declarations referred to in that sub-section should be furnished by dealers. The power to make such rules is exercisable by the State Government [*vide* clause 10(c) (ii)].

Clause 7 of the Bill seeks to insert three new sub-sections (2) (3) and (4) in section 9A of the principal Act. New sub-section (2) authorises the making of rules *inter alia* for prescribing the manner in which and the period within which amounts collected by dealers by way of tax in contravention of the provisions of the Act should be deposited with the appropriate authority. New sub-section (4)

authorises the making of rules for prescribing the authority before whom and the manner in which applications for refund of the amounts deposited under new sub-section (2) should be made. The power to make such rules is exercisable by the appropriate State Government in the case of any State or part thereof in which there is in force a general sales tax law and in other cases by the Central Government [*vide* clause 10, sub-clause (a) (iii) and sub-clause (c) (iii)].

Clause 10 of the Bill spells out the Government (Central or State) by which rules in respect of the matters mentioned above may be made. The clause also provides for rules being made by the Central Government for prescribing the appropriate State of origin of the forms to be used for the various declarations or certificates under the Act [*vide* clause 10(a) (ii)], and also for prescribing the penalties for contravention of rules made by that Government [*vide* clause 10 (d)].

All the aforesaid provisions under which rules may be made by the Central Government or, as the case may be, State Government, except the provision empowering the Central Government to provide for penalties for contravention of rules made by it, pertain essentially to matters of administrative detail and procedure and, therefore, the delegation of legislative power is of a normal character. The provision [clause 10 (d) of the Bill] empowering the Central Government to prescribe penalties for contravention of rules made by it is also of a normal character because the maximum limits of any such penalty (fine which may extend to five hundred rupees and in the case of a continued offence, a daily fine which may extend to fifty rupees for every day during which the offence continues) have been spelt out. Further, under sub-section (5) of section 13 of the principal Act, a similar power has already been conferred on State Governments.

2. Sub-clause (c) of clause 5 of the Bill seeks to substitute a new sub-section for existing sub-section (5) of section 8 of the principal Act for the purpose of enabling State Governments to grant exemptions from tax or reductions in rate of tax not only with reference to any goods or classes of goods as at present but also with reference to persons. The exemption from tax or reduction in rate of tax may be granted only if the State Government is satisfied that it is necessary so to do in the public interest. As it is not possible to visualise in advance the cases in which such exemptions or reductions may be necessary and as the exemptions or reductions can be granted only in public interest, the delegation of power to grant exemptions or reductions is of a normal character.

S. L. SHAKDHER,
Secretary.